



Memorandum

TO: PLANNING COMMISSION

FROM: Stephen Haase, AICP

SUBJECT: SEE BELOW

DATE: October 17, 2002

COUNCIL DISTRICT: 6

SUBJECT: ORDER TO SHOW CAUSE FOR SPECIAL USE PERMIT SP 96-03-011 AND CONDITIONAL USE PERMIT CP 00-03-008 LOCATED AT THE SOUTH EASTERN CORNER OF ALMADEN ROAD AND CANOAS GARDEN AVENUE.

BACKGROUND

On May 16, 1996, Special Use Permit SP96-03-011 was approved by the Director of Planning to allow a two-phase expansion of an existing legal non-conforming labor union facility in the R-1-8 Residence Zoning District. A total of two buildings were approved that now exist on separate parcels: one at the southeastern corner of Almaden Road and Canoas Garden Avenue, currently owned by the Labor Temple Association; and a second located on Canoas Garden Avenue approximately 400 feet easterly of Almaden road, owned by IBEW Local 332. The applicant signed a notarized permit acceptance on July 16, 1996 agreeing to comply with all of the conditions of the permit. The permit was approved with a condition requiring conformance to approved Special Use Permit plans SP96-03-011 entitled "Labor Temple Office Building," dated March 6, 1996, and last revised May 2, 1996.

On June 14, 2002, Conditional Use Permit Application CP00-03-008 was approved by the Planning Commission to provide architectural details for the previously approved single-story office building and a 400-seat meeting hall on property owned by IBEW Local 332 and to allow off-site and alternating parking arrangements so that the IBEW and the Labor Council facilities could share parking and fully utilize the meeting hall during evenings and weekends when offices on both sites are closed. The applicants signed a notarized permit acceptance on June 21, 2000 agreeing to comply with all of the conditions of the permit. The permit was approved with a condition requiring conformance to approved Conditional Use Permit plans CP00-03-008 entitled "IBEW Meeting Hall and Offices" dated March 3, 2000 last revised June 1, 2000.

In August 2002, representatives of the subject properties inquired whether a temporary office trailer could be installed on the properties until the November 5, 2002 election to accommodate phone banks. Staff responded that a planning permit would be necessary for the installation of a temporary building and that staff would not support the proposal due to the lack of adequate parking on the site to support additional office space, the lack of space on the site to accommodate an additional building and the difficulty of enforcing the removal of buildings proposed as temporary. Staff suggested that the phone banks be accommodated within the

existing buildings on the site or at another location and indicated that the Planning Department would take enforcement action if complaints were received regarding any trailer installed without permits.

On August 28, 2002, staff received a complaint that a trailer was located on the subject properties. City Planning staff visited the property on August 29, 2002 and determined that a double-wide modular building had been placed in a drive aisle at the front of the site facing the residences located across Canoas Garden Avenue and that a modular shed had been located within a parking space at the back of the site. The trailer did not appear to be anchored by a foundation and outside stairs provided access to the interior of the trailer. An electrical cord snaking across the western driveway and parking area appeared to provide electricity to the trailer from the Labor Temple building.

Based on this information, the Director of Planning issued a Notice of Non-Compliance on September 4, 2002 (see attached) requiring that the trailer and shed be removed by September 13, 2002. A site inspection indicated that the trailer and shed had not been removed by the specified date; consequently, the Director of Planning issued an Order to Show Cause (see attached) for failure to abate, correct or rectify within the time specified by the Director in the Notice of Non-Compliance.

Notice of Noncompliance/Order to Show Cause Process

The Zoning Code specifies that compliance with all conditions of development permits is required and provides the Notice of Noncompliance and Order to Show Cause procedures as tools for addressing violations of these requirements. The Director of Planning is authorized to issue a Notice of Noncompliance for any failure to comply with the Zoning Code or permit condition. If the violation is not corrected within the timeframe specified in the Notice of Non-Compliance, the Director may issue an Order to Show Cause setting a public hearing before the Planning Commission. If the Planning Commission determines that a violation of any condition of a development permit was not abated within the timeframe identified in the Notice of Non-Compliance, the Commission may revoke, suspend or modify the Permit. The decision of the Planning Commission on an Order to Show Cause for a Conditional Use Permit may be appealed to the City Council.

ANALYSIS

Staff's review of this property's permit compliance has included coordination with the Code Enforcement Division and site inspections by staff to assess conformance with the approved plans. Following is a brief summary of compliance with the conditions of the Special Use and Conditional Use Permits (see attached Permits)

SP96-03-011 Condition No. 4. This condition required the applicant to conform to the approved development plans entitled "Labor Temple Office Building," dated March 6, 1996 and last revised May 2, 1996. Neither the doublewide trailer nor the shed is shown on the development plans referenced in this condition.

CP00-03-008 Condition No. 2. This condition required the applicant to conform to the approved development plans entitled “IBEW Meeting Hall and Offices” dated March 3, 2000 and last revised June 1, 2000. Neither the trailer nor the shed are shown on the development plans referenced in this condition. The unpermitted trailer fills the entire width of a drive isle that connects the shared parking for the two properties.

The unpermitted structures were not removed within the timeframe identified in the Notice of Non-Compliance and continue to exist on the site in violation of the Special and Conditional Use Permits.

Conclusion

The office trailer and shed existing on this site are in violation of the Special Use Permit approved by the Director of Planning and the Conditional Use Permit approved by the Planning Commission. The violation was not corrected in response to the Notice of Non-Compliance issued by the Director of Planning and after six weeks, the property owners persist in this continued violation of the City’s permit requirements. Staff believes that the Commission should revoke and reissue the Special Use and Conditional Use Permit with conditions specifying immediate removal of the unpermitted structures and providing clear direction regarding the City’s response to any future violations.

RECOMMENDATION

Staff recommends that the Planning Commission revoke and reissue the Special and Conditional Use Permits with the additional specified below. A copy of the revised Draft Permit is attached.

Removal of Trailer and Shed. The property owners shall remove the unpermitted trailer and shed within five days of approval of this permit.

Permits Required. No building, structure, trailer or other improvement, either temporary or permanent, shall be placed on the subject property except in conformance with the requirements of Title 20 of the San Jose Municipal Code, the San Jose Building Code and all other applicable City regulations. The Director of Planning shall order the immediate removal of any temporary structure placed on the site in violation of this permit.

STEPHEN HAASE, AICP, DIRECTOR
Planning, Building and Code Enforcement

Attachments: 1). Notice of Non-Compliance, 2). Order to Show Cause 3). SP96-03-011 Condition No. 4; 4). CP00-03-008 resolution; and 5). Draft resolution for SP96-03-011 & CP00-03-008

c: Terry Tanner, IBEW Local 332, 2125 Canoas Garden Road, San Jose, CA 95125
John Neece, Labor Temple Association of Santa Clara County, 2102 Almaden Road, San Jose, CA 95125

